United Nations S/2012/524

Security Council

Distr.: General
6 July 2012

Original: English

Letter dated 6 July 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

I have the honour to enclose herewith a letter addressed to the Secretary-General from Mr. Salah Eldeen Wansi Mohammed Khair, Acting Minister for Foreign Affairs (see annex), regarding the correspondence of the Under-Secretary-General of Peacekeeping Operations dated 26 June 2012 addressed to Mr. Thabo Mbeki, Chairperson of the African Union High-level Implementation Panel, in which the Under-Secretary-General of Peacekeeping Operations has requested the clarification therein to be communicated to the Governments of the Sudan and South Sudan.

The Government of the Sudan received the above-mentioned letter with surprise and great disappointment, since it is expected that the different organs of the United Nations will act in a way that will enhance and promote the circumstances for the reduction of tension between the two countries and to avoid being seen inclined to take a position on matters of ongoing negotiations, as contained in the aforementioned letter of the Under-Secretary-General of Peacekeeping Operations.

Furthermore, since the Department of Peacekeeping Operations is not a legal body and no request was made to it in this regard, the Government of the Sudan considers the letter of the Under-Secretary-General a flagrant instance of an uncalled-for judgment and an impeachment of neutrality that all United Nations organs have to strictly and scrupulously observe.

While conveying the aforementioned information, I would appreciate if the present letter and its annex would be circulated as a document of the Security Council.

(*Signed*) Daffa-Alla Elhag Ali **Osman**
Permanent Representative

12-40809 (E) 110712

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Annex to the letter dated 6 July 2012 from the Permanent Representative of the Sudan to the United Nations addressed to the President of the Security Council

[Original: English]

Republic of the Sudan
Ministry of Foreign Affairs
State Minister

1. We refer to the correspondence of the Under-Secretary-General for Peacekeeping Operations dated 26 June 2012, addressed to H.E. Thabo Mbeki, Chairperson of the African Union High-level Implementation Panel (AUHIP), on which he has requested the clarification therein to be communicated to the Governments of the Sudan and South Sudan.

We would like to make reference to the following crucial remarks on the contents of the above-mentioned correspondence, which we received with surprise.

2. The Government of the Sudan strongly believes that the maps used by the United Nations Mission in the Sudan, the African Union-United Nations Hybrid Operation in Darfur, and the United Nations Mission in South Sudan are considered as one map, identical to the administrative map between Northern and Southern provinces on 1 January 1956, the day of independence of the Sudan, and identical to the map that determines the border between Northern and Southern states as specified in the Comprehensive Peace Agreement concluded on 9 January 2005 and which has been attested to by all peace partners, including the United Nations. In the event of any territorial dispute, the universally agreed legal norms and the tenets of natural law dictate that the status quo shall be maintained, until it is legally proven otherwise, whence the amendment becomes mandatory. Hence the map that stands at the instance of the independence of the Sudan is the same map drawn at the instance of the conclusion of the Comprehensive Peace Agreement in 2005, which is the very map that has been upheld and endorsed by the United Nations for the execution and discharge of its activities mandated to its Missions in accordance with the recognized principles of *uti possidetis*. This means that the map cannot be changed or altered, even temporarily for purposes such as determination of the safe demilitarized border zone (SDBZ).

3. As you are aware, the African Peace and Security Council Roadmap of 24 April 2012, endorsed by United Nations Security Council resolution 2046 of 2 May 2012, has primarily aimed at reduction of the tension, to be followed by the restoration of normalcy in the relations between the two neighbouring and sisterly countries. It is, therefore, natural to expect the different organs of the United Nations to act in a way that would enhance and promote this common objective, not otherwise.

4. If there exists a slightest shadow of doubt that this common objective would be compromised, the concerned United Nations organ is expected to exercise utmost caution and restraint and to do everything possible to avoid being seen inclined to take positions on matters of ongoing negotiations. This position has to be scrupulously observed, especially when, in the present case, there is no explicit

request to the Department of Peacekeeping Operations to advise from the concerned body entrusted with bringing negotiated settlement to effect, i.e., the African Union High-level Implementation Panel.

In the absence of such a request, which is in fact not needed at all, we view the above-mentioned correspondence as a flagrant instance of a non-called for judgement and an impeachment of neutrality that all United Nations organs have to strictly and scrupulously observe.

5. While we do agree with the fact that "broad administrative boundaries were taken into account without prejudice to any territorial 'claims' or disputes by any party", we would like to bring to your kind attention that such an assertion has been included in Security Council resolution 2046 (2012), to which we subscribe. To deny seeking both compelling and corroborative evidence to determine the safe demilitarized zone is an unfortunate, hasty and unwarranted act.

6. The position of the Government of the Sudan to make reference to the United Nations maps is legitimate. They can surely help in the efforts under way to determine the SDBZ, without prejudice to the final determination of the borders of the two states.

7. As a matter of fact the admissibility and weighing of any evidence is the sole and exclusive jurisdiction of competent and relevant legal organs.

We therefore, respectfully, reject the contents of the correspondence and view it as a negative intervention that might influence the ongoing negotiations.

(*Signed*) Salah Eldeen Wansi Mohammed **Khair**
Acting Minister for Foreign Affairs

Khartoum: 4 July 2012

Cc: Honourable Thabo Mbeki
Chairperson, African Union High-level Implementation Panel for Sudan (AUHIP)